

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM E. DUGAN, *et al.*,)
Plaintiffs,) CIVIL ACTION
vs.) NO. 07 C 6159
BRUSKI EXCAVATING) JUDGE JOAN H. LEFKOW
INCORPORATED, an Illinois corporation,)
Defendant.)

AFFIDAVIT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

DAVID S. BODLEY, being first duly sworn upon his oath, deposes and states:

1. He is now, and has since the first day of May, 1999, been employed by the Trustees of the Midwest Operating Engineers Fringe Benefit Funds as administrative manager, and in such capacity, has personal knowledge of the matters hereinafter set forth and if called as a witness in the instant proceedings is competent to testify in respect thereto.

2. He has read the Complaint filed in this cause, and knows of his own personal knowledge the contents of the collective bargaining agreements and Agreements and Declarations of Trust and all facts alleged therein, and if called and sworn as a witness is competent to testify thereto.

3. He is charged with keeping and maintaining records of contributions received by the Plaintiff Funds, maintains individual records on each person, firm and corporation required to make contributions to said Plaintiff Funds, receives and records contribution reports made by such persons, firms or corporations, and has under his supervision and direction all books, records, documents and papers relating to such Plaintiff Funds.

4. He has examined the account of Defendant in the above-entitled cause, and states that said Defendant:

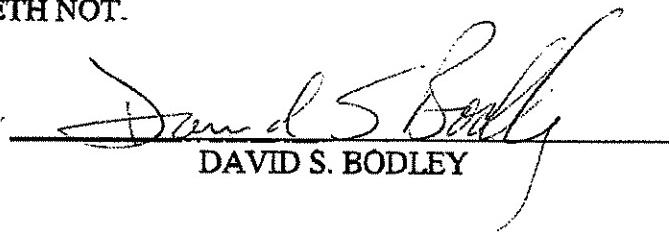
- a. Is required to submit monthly contribution reports accompanied by payment of fringe benefit contributions, under the terms of a written agreement specifying and describing such obligation;
- b. Has failed to submit to Plaintiffs the monthly contribution reports and contributions required of it for August 2007 through October 2007, despite repeated notification from his office to said Defendant of such delinquency.

5. Because of the Defendant's failure to submit the required monthly contribution reports for August 2007 through October 2007, Affiant is unable to determine the amounts, if any, that may be due and owing to Plaintiffs.

6. He is duly authorized by Plaintiffs in this behalf, has personal knowledge of the matters set forth above and if called as a witness in this cause, is competent to testify thereto.

7. He makes this Affidavit in support of the application of Plaintiffs for entry of default and for an order directing Defendant to submit its monthly fringe benefit contribution reports for August 2007 through October 2007 and requests this Court to consider the same as proof in support of the allegations contained in the Complaint of the Plaintiffs and such other facts herein set forth.

FURTHER AFFIANT SAYETH NOT.



DAVID S. BODLEY

SUBSCRIBED AND SWORN
TO before me this 30th
day of November, 2007.

Nancy Amabile
NOTARY PUBLIC

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Affidavit of David S. Bodley) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 4th day of December 2007:

Mr. Karlen R. Covey, Registered Agent
Bruski Excavating Incorporated
7908 Route 14, Suite B
Crystal Lake, IL 60012

/s/ Beverly P. Alfon

Beverly P. Alfon
Attorney for Plaintiffs
BAUM SIGMAN AUERBACH & NEUMAN, LTD.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
Bar No.: 6274459
Telephone: (312) 236-4316
Facsimile: (312) 236-0241
E-Mail: balfon@baumsigman.com

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